

# ***TOWN OF BRAINTREE***

## ***IN COUNCIL***

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ORDER NO: 10 010

DATE: January 21, 2010

ORDERED: Mayor

### **TITLE 3, CHAPTER 3: REVENUE AND FINANCE ORDINANCES**

HIS HONOR, MAYOR SULLIVAN HAS SUBMITTED TO THE BRAINTREE TOWN COUNCIL THE MUNICIPAL CODE, TITLE 3, CHAPTER 3 ORDINANCE FOR THE TOWN OF BRAINTREE.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 3, CHAPTER 3-100 FISCAL PROVISIONS GENERALLY BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.**

#### **Chapter 3-100 – Fiscal Provisions Generally** (Former By-Law Chapters 2.48 and 3.04)

##### **SECTION 3.100.010 Procedures Governing Procurement of Supplies and Services**

- A. No Officer, Department Head or Committee authorized to expend money shall purchase supplies or materials or contract for services to be rendered to the Town without following the applicable statutory process as well as the rules and regulations governing such matters as may be promulgated from time to time by the Director of Municipal Finance. Notwithstanding the establishment of any office or agency with a specific responsibility to purchase and procure goods and services for the Town, the Mayor shall retain authority over every purchase and procurement made by departments under the jurisdiction of the Mayor.
- B. Any elected official, department director, agent or other person duly authorized to purchase goods or services on behalf of the Town shall first determine that such procurement is in the best interest of the Town. In determining the best interest of the Town the elected official, department director, agent or other duly authorized person shall consider such factors including but not limited to:

1. The Town's need for goods and/or services to be provided;
2. The cost of goods and/or services to be provided in comparison with the costs other providers of similar or identical goods or services would charge;
3. References from other Towns which have dealt with the provider of goods and/or services;
4. The quality of goods and/or services provided to the Town by the provider in prior dealings between the Town and the provider;
5. Potential impact either adverse or beneficial that the contract may have on any lawsuit filed by or against the Town.

#### **SECTION 3.100.020 Exceptions for Emergencies**

The Mayor may exempt a purchase or contract from any or all of the provisions of the preceding section when, in the opinion of the Mayor, an emergency exists requiring immediate action on such purchase or contract to protect the health or safety of persons or property, or when no reasonably suitable substitute can be obtained for the article or service to be purchased or contracted for. Evidence indicating that such an emergency exists or that no reasonable substitute for a purchase or service can be obtained shall be furnished to the Mayor and to the Director of Municipal Finance, in writing, by the Officer, Board or Committee making such purchase or contract and shall be kept on file with other records of such transactions.

#### **SECTION 3.100.030 Written Contracts Required**

Every Board or Officer in charge of a Department and every committee of the Town, when authorized to do any public work or to purchase any supplies, materials or property or erect, construct or repair any building, the estimated cost of which is five thousand dollars (\$5,000) or more, shall make a written contract therefore, which shall be filed with the Director of Municipal Finance, or his/her designee.

#### **SECTION 3.100.040 Written Contracts for Certain Unclassified Positions**

All contracts for services of employment to the Town (for positions not classified under the Human Resources Department, or under the direction of the School Department), shall be in writing and filed with the Director of Municipal Finance.

#### **SECTION 3.100.050 Performance and Payment Bond Required**

Every contract for construction work subject to General Laws Chapter 149, Sections 44A-44M, or any other applicable statute, whether for alterations, repairs or original construction, shall be accompanied by a suitable bond for the performance of same and for the payment of subcontractors in the amount of the contract price, as specified in General Laws Chapter 149, Section 44E. (ATM 5-14-2002 Art. 25; prior code § 17-5)

### **SECTION 3.100.055 Trust Funds**

Unless some other provision is made by the express terms of a trust, the Treasurer/Collector or the Director of Municipal Finance, if serving as the Treasurer/Collector, shall be the custodian of all funds given or bequeathed to the Town for any purpose and shall manage and invest such sums in the same manner and with the same restrictions as apply to how other municipal funds are managed and invested. The Treasurer/Collector shall, annually, file a report in the office of the Mayor, a copy of which shall be printed in the Annual Town Report, which shows the beginning balance in each fund, the interest earned during the year just ended, the amount expended (and unless an account is given elsewhere, the purposes for which such funds were expended) and the ending balance in each such account.

### **SECTION 3.100.060 Appropriations from Conservation Fund**

Appropriations from the conservation fund for land acquisition shall require at least two-thirds affirmative vote of Town Council members present and voting. (Prior code § 41-19)

### **SECTION 3.100.065 Disposal of Surplus Property**

#### **A. Personal Property**

- (1) Subject to such regulations regarding the disposition of surplus property as may be promulgated by the Director of Municipal Finance, the disposal of surplus personal property shall be governed by the provisions of Chapter 30B, Section 15 of the General Laws, as may be amended.
- (2) No personal property of the town shall be sold by any officer or board, unless by vote of the town council or by the joint authorization of the Mayor and of the president of the town council, except that if its initial cost or value was two hundred dollars (\$200.00) or less, it may be sold by the authorization of the Mayor; such authorization shall, in each case, be in writing, certify that the proposed selling price is fair and be filed with the town accountant. In the transaction for sales so approved, the turn-in value of any traded equipment may be allowed as a credit against the total price of similar equipment required for replacement purposes. (Prior code § 17-7)

#### **B. Real Property**

- (1) Subject to such regulations regarding the disposition of real property as may be promulgated by the Director of Municipal Finance, the disposal of surplus real property shall be governed by the provisions of Chapter 30B, Section 16 of the General Laws, as may be amended.



- (2) The Mayor may sell real property, the title to which has been acquired by the Town under tax title foreclosure procedure or the so-called low value tax title statute, at public auction pursuant to a notice of such sale published in one or more newspapers published in the town at least one week before the date of such sale and shall execute such deeds or instruments of conveyance as may be necessary to carry out the purpose of this section. Unless the full purchase price or balance thereof has been paid for such conveyance within sixty days after completion of the auction sale, the Mayor may determine that the sale be set aside for breach of contract by the purchaser and any payment made on account thereof forfeited to the town as liquidated damages. No such sale shall be made unless the Town shall have notified, in writing, all abutters of the land to be sold one week in advance of such sale and all town departments and commissions having custody of any town-owned land one month in advance of such sale. (Prior code § 26-4)

### **SECTION 3.100.070 Fees and Charges by Municipal Agencies**

Any municipal agency which is otherwise authorized to issue a license, certificate or permit, or to render a service or to perform work for a person or class of persons, may from time to time fix a reasonable fee for the license, certificate, permit or for rendering the service or for performing the work in the manner provided in Chapter 40, Section 22F of the General Laws. No municipal agency shall establish a fee or charge pursuant to this section without the prior review and consent of the Mayor, or, if the agency is appointed by the School Committee, without the consent of the School Committee. Any fee or change in fee adopted under this section shall be posted on a bulletin board at Town Hall, posted in a public place in the office of the Department authorized to collect such fee, posted on the Town's official website, and on file with the office of the Town Clerk.

### **SECTION 3.100.100 Due Dates for Payments to Town, Interest on Unpaid Balances**

Unless some other provision is made by law which permits a longer time for payment, all bills for the payment of any sum due to the Town, for whatever purpose, shall be due on the thirty-first (31st) day following the date such bill has been issued. Interest shall be added to any balance which remains unpaid after such thirty-first (31st) day at the same rate as is provided in Chapter 59, Section 57 of the General Laws.

### **SECTION 3.100.110 Acceptance of Gifts, Grants, Bequests, etc.**

Any Town agency may accept grants, gifts, or bequests of funds from any other unit of government, from a charitable entity, from a private corporation, or from an individual or group of individuals when such funds are to be expended for purposes within the jurisdiction of the Town agency. The Town agency may expend up to five thousand dollars (\$5,000) annually, in the aggregate, from the funds in any such account, but any expenditure in excess of five thousand dollars (\$5,000) annually requires the prior approval of the Mayor, for the purposes as specified in the gift or grant or bequest.

The Treasurer/Collector shall maintain a list of all such funds as may be established pursuant to this section which listing shall be kept in a place convenient for public examination during regular office hours. A summary of the receipts and disbursements in each account so established shall be published annually in the Town Report. This section is designed to implement and apply the provisions of Chapter 44, Section 53A of the General Laws.

#### **SECTION 3.100.120 Private Off-Duty Work Details**

All money received by the Town as compensation for work performed by one of its employees on private off-duty work details shall be deposited in the Town Treasury and kept in a fund separate from other municipal funds. As provided in Chapter 44, Section 53C of the General Laws, the funds in such account may be used, without further appropriation, to compensate Town employees for such services. A surcharge of ten (10) percent shall be added to the fee charged by the municipal agency for the service which shall be paid by the person requesting the service. This fee shall be to cover the cost of administering the fund. This surcharge shall not apply to Town projects directly paid by the Town, such as the police detail for the School's Thanksgiving Day football game.

#### **SECTION 3.100.135 Execution of Deeds and Other Instruments by Treasurer/Collector**

Whenever it shall be necessary to execute any deed conveying land, or any other instrument required to carry into effect any vote of the Town Council, the same shall be executed by the Treasurer/Collector on behalf of the Town, unless otherwise provided by law or by vote of the Town Council. (Prior code § 26-3, §2.48)

#### **SECTION 3.100.145 Annual Audit Required**

The books and accounts for all departments of the Town shall be audited annually by an independent certified public accounting firm as assigned by the Town Council and as provided by Section 42, Chapter 44, of the General Laws or by auditors assigned by the Bureau of Accounts as provided by Section 40, Chapter 44. (Prior code § 8-1; Charter §6-11)

SECTION 3.100.150 Payment by Town Departments to Treasury

**All Town departments are required to pay all fees paid to them by virtue of their office into the Town treasury.** (Prior code § 32-1; §3.04)

#### **SECTION 3.100.155 Transmittal of Deferred Compensation Withholdings**

The Treasurer/Collector shall promptly transmit to the appropriate designated recipient on a basis consistent with the employee's pay periods all funds withheld from employees' payrolls in connection with any duly authorized deferred compensation plan. (STM 11-1-1993 Art. 23: prior code § 32-10; §3.04)

#### **SECTION 3.100.165 Bills**

All bills for accounts due the Town shall state that all checks, drafts, or money orders shall be made payable to or to the order of the Town and not to or to the order of any officer, board, or commission.



YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT A NEW ORDINANCE, TITLE 3, CHAPTER 3-110 WATER/SEWER REHABILITATION FUND BE ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE.

### **Chapter 3-110 - WATER/SEWER REHABILITATION FUND** (Former By-Law Chapter 3.09)

#### **SECTION 3.110.010 Establishment—Purpose.**

Pursuant to Chapter 303 of the Acts of 1990, an account to be known as the Town Water/Sewer Rehabilitation Fund is established for the purposes of providing revenue for the funding of engineering, testing, construction and rehabilitation of the water and sewage pipes, lines, facilities and systems located within the town and to provide revenues to do all things necessary to correct, remedy, repair, prevent and prohibit any and all forms of infiltration or inflow from groundwater and other sources of water into pipes, lines, facilities and systems. (ATM 5-13-91 Art. 18 (part); prior code § 44-1; 3.08)

#### **SECTION 3.110.020 Water and Sewer User Fees**

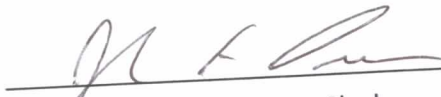
A one-time fee shall be paid by applicants for building permits for the construction, erection, improvement, reuse or rehabilitation of land or buildings thereon for industrial, commercial, multi-family and residential uses in the amount of two dollars per gallon of estimated daily water use and two dollars per gallon for estimated daily sewer use for new usage or additional usage for existing permits. The estimated daily water usage and the estimated daily sewer usage shall be calculated based upon the criteria established in 310 CMR 15.203, system sewage flow design criteria. (STM 1-27-2003 Art. 4, ATM 5-13-1991 Art. 18 (part); prior code § 44-2; §3.08)

YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT ALL BY-LAWS UNDER TITLE III, REVENUE AND FINANCE, AS APPROVED BY TOWN MEETING THROUGH DECEMBER 31, 2007 AND AS SUBSEQUENTLY APPROVED BY THE ATTORNEY GENERAL AND PRINTED IN THE GENERAL BY-LAWS OF THE TOWN THROUGH SEPTEMBER 2008 BE REPEALED.

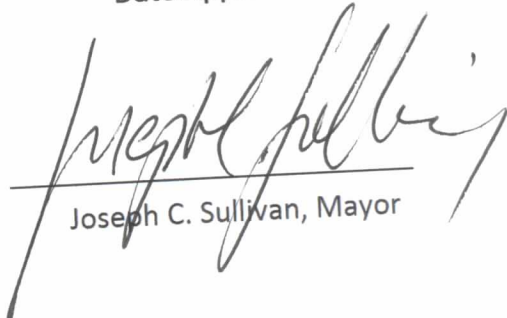
YEAS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
NAYS: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan  
ABSENT: Bowes, Clifford, DeNapoli, Dingee, Joyce, Kokoros, Mullaney, Powers, Ryan

Passed in Council: May 18, 2010  
Presented to Mayor: May 21, 2010  
A True Copy, Attest:

  
\_\_\_\_\_  
Joseph F. Powers, Town Clerk

May 24, 2010

Date Approved

  
\_\_\_\_\_  
Joseph C. Sullivan, Mayor



**TOWN OF BRAintree**  
**OFFICE OF THE TOWN SOLICITOR**  
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Braintree, Massachusetts 02184  
Tel: 781-794-8153 Fax: 781-794-8305

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#10-011  
#10-012

Joseph C. Sullivan  
Mayor

Carolyn M. Murray  
Town Solicitor

To: Charles B. Ryan, President of the Council  
Clerk of the Council  
Town Clerk

Cc: Peter J. Morin, Chief of Staff and Operations

From: Carolyn M. Murray, Town Solicitor 

Date: January 21, 2010

RE: Proposed Ordinances – Title 3 through 5

On October 5, 2009, the Mayor submitted to the Council the first in a series of installments of proposed ordinances, as we continue to transition to our new form of government and convert existing by-laws into ordinances consistent with this transition. It is my understanding that the Council's Rules and Ordinances Committee continues to review those ordinances, and to keep the process fluid, I am filing herewith proposed ordinances for Title 3, Revenue and Finance, and Title 5, Licenses and Permits, with Title 4 reserved for future use.

As with the prior submission, many of these ordinances are revised versions of similar sections contained in our current Town By-laws, and where applicable, the reference to the former by-law is noted under the title of each ordinance. These proposed ordinances have been reviewed and revised by the Mayor, the first and second Transition Committees, as well as the affected department heads or boards, prior to finalizing this submission.

We are also recommending the deletion of two chapters of our existing General By-laws. According to Section 9-1 of our Charter, all by-laws remain in effect until amended or repealed. Two chapters of our existing General By-laws are not necessary: Chapter 5.08 regarding Alcoholic Beverages and the distance that a licensed establishment must be from a church or school is codified in regulations promulgated by the Alcoholic Beverages Control



Commission, and Chapter 5-14 establishes fees for three types of licenses, which can be set and adjusted by the Board of License Commissioners without the need for an ordinance. Therefore, it is my recommendation that these two chapters of the existing General By-laws be repealed as unnecessary or duplicative of state regulations.

Pursuant to Section 2-9 of the Charter, every proposed ordinance must be published once in full or in summary if it exceeds ten column inches in length, in a local newspaper at least ten days before its final passage. Your favorable action on these ordinances is respectfully requested.

The attached ordinances are:

1. Chapter 3-100 – Fiscal Provisions Generally
2. Chapter 3-110 – Water/Sewer Rehabilitation Fund
3. Chapter 5-100 – Local Licenses and Permits
4. Chapter 5-200 – Licenses and Permits of Delinquent Taxpayers
5. Chapter 5.08 – Alcoholic Beverages (recommended repeal)
6. Chapter 5-400 – Amusement Games
7. Chapter 5.14 Fees (recommended repeal)
8. Chapter 5-450 – Food Sales
9. Chapter 5-500 – Fortunetellers, Palmists and Similar Practitioners
10. Chapter 5-550 – Gasoline Stations
11. Chapter 5-560 – Junk, Secondhand and Salvage Dealers
12. Chapter 5-565 – Peddling and Soliciting
13. Chapter 5-570 – Precious Metal Dealers
14. Chapter 5-575 – Printed Matter Vending Machines
15. Chapter 5-580 – Taxicabs
16. Chapter 5-585 - Yard Sales
17. Chapter 5-590 – Trash Haulers